

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DARRIN A. GRUENBERG,

Plaintiff,

v.

DUSTIN KINGSLAND and
STEVEN MUELLER,

Defendants.

ORDER

11-cv-574-slc

Plaintiff Darrin Gruenberg is proceeding to trial on his claim that defendants used excessive force against him in violation of his right to be free from cruel and unusual punishment under the Eighth Amendment. On September 10, 2012, I denied Gruenberg's fourth motion for appointment of counsel, explaining that Gruenberg has continued to fail to demonstrate that the legal and factual difficulty of this case exceeds his ability to prosecute it. On September 19, Gruenberg filed a document entitled "Appeal of Denial of Appointment of Counsel by the Magistrate Court to the District Court." Dkt. 54.

When a party consents to the jurisdiction of a magistrate judge in his lawsuit, he consents to having the magistrate judge enter a final decision in the case. *See* 28 U.S.C. § 636(c)(3); *Central Soya Co., Inc. v. Voktas, Inc.*, 661 F.2d 78, 80 (7th Cir. 1981). Once judgment is entered by a magistrate judge, an aggrieved party may appeal directly to the court of appeals "in the same manner as an appeal from any other judgment of a district court." *Id.* There is no "review" or appeal to the district court judge originally assigned to the case. Further, consent cannot be withdrawn absent extraordinary circumstances. § 636(c)(4); *Lorenz v. Valley Forge, Ins. Co.*, 815 F. 2d 1095, 1097 (7th Cir. 1987); *Geras v. LaFayette Display Fixtures, Inc.*, 742 F. 2d 1037, 1038 (7th Cir. 1984). If the parties in a consent case could change their decision just because they didn't like a magistrate judge's ruling, then consent would be withdrawn in almost every case and consent jurisdiction would be a pointless exercise. The fact that I have not ruled in the way that

Gruenberg wants is not an extraordinary circumstance. Therefore, he cannot withdraw his consent to my jurisdiction and seek redress with a district court judge. Gruenberg's only option is to file an appeal with the Court of Appeals for the Seventh Circuit.

ORDER

IT IS ORDERED that plaintiff Darrin Gruenberg's appeal to the district court of the denial of his request for appointment of counsel, dkt. 54, is DENIED.

Entered this 28th day of September, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge